

Second Regular Session 114th General Assembly (2006)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2005 Regular Session of the General Assembly.

SENATE ENROLLED ACT No. 33

AN ACT to amend the Indiana Code concerning probate.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 29-3-1-15.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 15.5. "Volunteer advocate for incapacitated adults" means an individual who:**

- (1) is a volunteer;
- (2) has completed a limited guardian training program approved by a court;
- (3) is supervised by a community volunteer advocates for adults program;
- (4) is appointed by a court to serve as a limited guardian for an incapacitated person or protected person who is at least eighteen (18) years of age; and
- (5) provides reports and makes recommendations to a court.

SECTION 2. IC 29-3-8.5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. A court in a proceeding under this article may appoint a volunteer advocate for seniors **or a volunteer advocate for incapacitated adults**.

SECTION 3. IC 29-3-8.5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2. A volunteer advocate for seniors **or a volunteer advocate for incapacitated adults** shall submit to the court:

- (1) a progress report fifteen (15) days after the date of

SEA 33+



C
o
p
y

- appointment describing the matters required by the court; and
- (2) a final report sixty (60) days after the date of appointment:
- (A) describing the matters required by the court; and
 - (B) making recommendations to the court as to whether a need exists for continued representation of the incapacitated or protected person.

SECTION 4. IC 29-3-8.5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 3. A volunteer advocate for seniors **or a volunteer advocate for incapacitated adults** shall:

- (1) serve as a limited guardian to represent and protect the interests of an incapacitated or protected person; ~~who is at least fifty-five (55) years of age;~~
- (2) investigate and gather information regarding the health, welfare, and financial circumstances of the incapacitated or protected person, as directed by a court;
- (3) facilitate and authorize health care, social welfare, and residential placement services as needed by the incapacitated or protected person;
- (4) advocate for the rights of the incapacitated or protected person;
- (5) facilitate legal representation for the incapacitated or protected person; and
- (6) perform any other duty required by a court.

SECTION 5. IC 29-3-8.5-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 4. A volunteer advocate for seniors **or a volunteer advocate for incapacitated adults** may:

- (1) consent to medical and other professional care and treatment for the incapacitated or protected person's health and welfare;
- (2) secure the appointment of a guardian or coguardian in another state;
- (3) take custody of the incapacitated or protected person and establish the person's place of abode within Indiana or another state in accordance with IC 29-3-9-2;
- (4) institute proceedings or take other appropriate action to compel the performance by any person of a duty to support the incapacitated or protected person's health or welfare; and
- (5) delegate to the incapacitated or protected person certain responsibilities for decisions affecting the person's business affairs and well-being.

SECTION 6. IC 29-3-8.5-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 5. If a court appoints an individual to serve as a volunteer advocate for seniors **or a**

C
o
p
y



volunteer advocate for incapacitated adults, the appointment shall be for a period of sixty (60) days. After the initial sixty (60) day period, the court may, upon petition by the volunteer or upon the court's own motion, extend the appointment for a period as determined by the court to be necessary to protect the interests of the incapacitated or protected person.

SECTION 7. IC 29-3-8.5-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 6. A volunteer advocate for seniors **or a volunteer advocate for incapacitated adults** is considered an officer of the court for the purpose of representing the interests of an incapacitated or protected person.

SECTION 8. IC 29-3-8.5-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 7. The court may appoint an attorney to represent a volunteer advocate for seniors **or a volunteer advocate for incapacitated adults**.

SECTION 9. IC 29-3-8.5-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 8. Except for gross misconduct:

- (1) a volunteer advocate for seniors **program or a volunteer advocate for incapacitated adults** program that;
 - (2) an employee of a volunteer advocates for seniors **program or a volunteer advocate for incapacitated adults** program who; or
 - (3) a volunteer for a volunteer advocates for seniors **program or a volunteer advocate for incapacitated adults** program who;
- performs duties in good faith is immune from any civil liability resulting from the program's, employee's, or volunteer's performance.

SECTION 10. IC 29-3-8.5-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 9. A volunteer advocate for seniors **or a volunteer advocate for incapacitated adults** under this chapter is not authorized to consent to or refuse health care (as defined in IC 16-36-1-1) for an individual if:

- (1) a spouse, a parent, an adult child, or an adult sibling of the individual or the individual's religious superior, if the individual is a member of a religious order, is available, capable, and suitable to consent to or refuse the health care on behalf of the individual; or
- (2) the individual has previously:
 - (A) appointed a health care representative under IC 16-36-1;
 - (B) authorized health care under IC 16-36-1.5, IC 16-36-4, or IC 16-36-5;
 - (C) executed a power of attorney under IC 30-5-4; or
 - (D) had a guardian appointed by the court under IC 29-3.

C
o
p
y



SECTION 11. IC 29-3-9-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2. A guardian (other than a temporary guardian), ~~or a~~ volunteer advocate for seniors, **or a volunteer advocate for incapacitated adults** appointed under IC 29-3-8.5 may, with the approval of and under such conditions as may be imposed by the court after notice and hearing, change the physical presence of the protected person to another place in Indiana or to another state if the court finds that such a change is in the best interests of the protected person. Upon such a change, the guardianship may be limited or terminated by the court.

SECTION 12. IC 34-30-2-125.5, AS AMENDED BY P.L.2-2005, SECTION 114, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 125.5. IC 29-3-8.5-8 (Concerning a volunteer advocate for seniors **or a volunteer advocate for incapacitated adults**).

C
o
p
y



President of the Senate

President Pro Tempore

Speaker of the House of Representatives

Governor of the State of Indiana

Date: _____ Time: _____

**C
o
p
y**

SEA 33+

